IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10399 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GANESHBHAI LALABHAI PARMAR - Petitioner(s)

Versus

STATE OF GUJARAT -THROUGH- & 2 - Respondent(s)

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Appearance :

MR MEHUL H RATHOD for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1,
MR DHAVAL M BAROT for Respondent(s) : 2,
RULE SERVED BY DS for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 17/11/2005

ORAL JUDGMENT

In the present petition, the petitioner has challenged the legality of the order dated 29.9.2003 passed by the District Development Officer by which he

was removed from the position of Member of the village Panchayat Ambetha, Taluka Palanpur. The petitioner has also challenged the order passed by the Additional Development Commissioner on 20th October, 2003 by which the appeal of the petitioner against the order of the District Development Officer was rejected.

2. The petitioner was an elected member of the Gram Panchayat. It was alleged that from 81 families of Swamannagar, the petitioner collected a total sum of Rs.4860/- at the rate of Rs.60 per family which was deposited in the Gram Panchayat but the receipts were not given to the individual family members. These amounts were never returned to the families and he thereby misused his official position.

3. In response to the charge, the defence of the petitioner was that there is a tube-well for drinking water of the families residing in Swamannagar which is managed by the Gram Panchayat. Earlier this was managed by Vankar Cooperative Society. However, since the financial condition of the society was not sound, electricity bills were not paid. The petitioner, therefore, to ensure that there is no disruption of

drinking water supply, collected an amount of Rs.60 from each family and deposited the amount with the Panchayat for payment of electricity bill of the Gujarat Electricity Board for operating the tube-well. The petitioner gave the exact details of the amounts spent. The District Development Officer, however, did not accept the defence of the petitioner and passed the order of his removal. The Additional Development Commissioner upheld the order of the District Development Officer.

4. I find that the authorities below committed error in removing the petitioner from the position of member of the Gram Panchayat. There is no serious dispute about the fact that the amount collected by the petitioner was deposited with the Panchayat and it was never used for his personal purpose. In fact, the purpose for which the petitioner collected the amount was also laudable. It is on record that on account of the weak financial condition of the co-operative society which was earlier maintaining tube-well, there were defaults in payment of light bills to the Gujarat Electricity Board. If timely action was not taken, electricity supply would have been disconnected thereby leading to discontinuation of drinking-water to the

entire locality which houses as many as 81 families. If the petitioner with his active participation tied over the crisis, he committed no wrong. Even if there were some minor procedural irregularities because of his actions, the same ought to have been overlooked by the authorities. Under no circumstances his removal can be justified in the present case.

5. The petition is therefore allowed. The impugned orders passed by the District Development Officer and the Additional Development Commissioner are quashed. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)